IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 10TH JULY 2007 / 19TH ASHADHA 1929

WP(C).No. 21194 of 2007(W)

AGAINST THE ORDER IN IA 1529/07 IN
OS.611/2002 of PRINCIPAL MUNSIFF,ALAPPUZHA

.....

PETITIONER:

SRI.RAMACHANDRAN,
S/O.PARAMESWARA KURUP, AGED 42,
RESIDING AT NADACKAL, MARARIKULAM NORTH,
MARARIKULAM NORTH P.O.

BY ADV. SRI.JOY THATTIL ITTOOP

RESPONDENTS:

---

1. SRI.NARAYANA KURUP SIVARAMA KURUP,
AGED 69, RESIDING AT THULASI SADANAM,
FROM VADAKKEPLACKEL, MARARIKULAM NORTH VILLAGE,
MARARIKULAM MURI, CHERTHALA TALUK.

2. MAHTRUKA SIVARAMAKURUP, AGED ABOUT
47, RESIDING AT PALATTU, MARARIKULAM NORTH
VILLAGE, MARARIKULAM MURI, CHERTHALA TALUK,
M.N.P.O.

3. LETHAKUMARI, AGED ABOUT 45, RESIDING
AT NADACKAL, MARARIKULAM NORTH, M.N.P.O.

4. JEEVAN, S/O.PARAMESWARA KURUP, AGED
ABOUT 35 YEARS, RESIDING AT NADACKAL,
MARARIKULAM NORTH, M.N.P.O.

5. VIKRAMA KURUP, S/O.GANGADHARA KURUP,
AGED ABOUT 48 YEARS, RESIDING AT
EDAVAZHIKKAL, MARARIKULAM NORTH,
M.N.P.O. ALAPPUZHA.

6. N.S.S.KARAYOGAM, NO.617, MARARIKULAM
NORTH, CHERTHALA TALUK, REPRESENTED BY ITS
PRESIDENT T.N.SUKUMARA KURUP.

7. M.KARUNAKARAN NAIR, AGED 61 YEARS,
MADHAVI NIVAS, MARARIKULAM NORTH,
SECRETARY N.S.S.KARAYOGAM NO.617,
MARARIKULAM NORTH, CHERTHALA TALUK.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 10/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J

==========

W.P.(C) No.21194 OF 2007

==========

Dated this the 10th day of July, 2007

JUDGMENT

This writ petition is filed seeking to set aside Ext.P8 order passed in O.S.No.611 of 2002 of the Principal Munsiff's Court, Alappuzha. In order to understand the facts, it is desirable to refer Ext.P3 order passed by the very same court on 14.10.2004. It was an application for issuance of a Commission. After hearing both sides, the court passed a conditional order allowing the application for issuance of a Commission on compliance of the following, viz. (1) The plaintiff has to produce a certified copy of the title deed No.1090/1020 and the certified copies of the decree as well as the commission report and plan in O.S.No.370/1986 of the Munsiff's Court, Cherthala, (2) The plaintiff is bound to produce certified copy of the title deeds of the Karayogam for measuring the whole properties for identifying the alleged trespass committed by the 5th defendant for recovery of item No.2 and also for the identification and recovery of item No.3 property and the court granted two weeks' time to produce the certified copies.

2. The matter was taken up in revision and the said order was

confirmed and subsequently it appears that necessary documents were not produced and therefore the court rejected the prayer. Now the court by the present impugned order had reviewed the order of dismissal on the ground that the documents have been produced. So, one thing is very clear that for a proper decision on the matter, it is absolutely necessary to have a Commissioner's plan and report with reference to the title deeds and documents mentioned by the Munsiff in Ext.P3 order. If those documents are not produced before the court, it may be only a futile attempt to inspect the property and submit a report. Since the Munsiff had recorded that documents have been produced, I do not want to interfere at this stage. But I make it very clear that documents mentioned in Ext.P3 order have to be produced and only in the light of those documents the Commissioner has to inspect and identify the property. In case one of the documents is not produced, that may also be directed to be produced before the Commissioner before he actually finishes his work. Both sides are permitted to file work memo before the Commissioner with respect to the relevant documents as well for identification of the property. It may not be correct on the part of the Commissioner to inspect the property unless all the

documents are made available for the said purpose.

Writ petition is disposed of as above.

M.N.KRISHNAN, JUDGE

Cdp/-